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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

In re

FRESH MIX LLC,

Debtor

USDC Case No. 2:23-cv-1898-CDS

Bankruptcy Case No. BK-S-20-12051-GS
Chapter 7

LENARD E. SCHWARTZER, TRUSTEE,

Plaintiff

Adversary Proceeding No. BK-S-22-01049-GS

v.

PISANELLI BICE, PLLC; and
GET FRESH SALES, INC.,

Defendants

**STIPULATION AND ORDER FOR
DISMISSAL**

PISANELLI BICE, PLLC,

Appellant

v.

LENARD E. SCHWARTZER, TRUSTEE,

Appellee

Appellant/Defendant PISANELLI BICE, PLLC ("Pisanelli Bice"), and Plaintiff/Appellee LENARD E. SCHWARTZER, TRUSTEE (the "Trustee"), by and through their respective counsel of record, hereby agree and stipulate as follows:

RECITALS

WHEREAS on April 23, 2020 (the "Petition Date"), Get Fresh Sales, Inc. ("GFSP"), as majority member of debtor Fresh Mix, LLC, filed an involuntary petition under Chapter 7 of the

1 Bankruptcy Code against debtor Fresh Mix, LLC (the “Debtor”) in United States Bankruptcy
2 Court, District of Nevada (the “Bankruptcy Court”) commencing *In re Fresh Mix LLC*,
3 bankruptcy case no. BK-S-20-12051-GS (the “Bankruptcy Case”); and

4 **WHEREAS** on June 8, 2020, the Trustee was appointed as interim Chapter 7 Trustee for
5 the Bankruptcy Case. On August 11, 2020, a formal Order for Relief was entered and the Trustee
6 remained the Chapter 7 Trustee to administer the bankruptcy estate; and

7 **WHEREAS** on March 10, 2022, the Trustee commenced an adversary proceeding against
8 Pisanelli Bice in Bankruptcy Court seeking turnover of certain records, and that case is captioned
9 *Schwartz v. Pisanelli Bice, PLLC*, (adversary proceeding no. 22-01049-GS) (the “Adversary
10 Proceeding”).

11 **WHEREAS** on October 20, 2023, the Bankruptcy Court entered its *Order on Motions for*
12 *Summary Judgment* (the “Summary Judgment Order”) in the Adversary Proceeding.

13 **WHEREAS** on November 2, 2023, Pisanelli Bice filed its notice of appeal of the
14 Summary Judgment Order in the Adversary Proceeding, commencing the instant appeal (USDC
15 case no. 2:23-CV-01889-CDS). Pisanelli Bice’s *Notice of Appeal and Statement of Election*
16 identifies Pisanelli Bice as the appellant, and the Trustee as the appellee, and identifies several
17 other interested parties [USDC ECF No. 1]; and

18 **WHEREAS** on November 17, 2023, a joint motion was submitted in this Appeal by
19 Pisanelli Bice (Appellant) and the Trustee (Appellee) with the other interested parties to extend the
20 designation deadlines and the transcript order deadline while the Bankruptcy Court evaluated
21 dismissal of the Bankruptcy Case, and on November 30, 2023, this Court entered an order
22 approving said extensions [USDC ECF Nos. 3 and 4]; and

23 **WHEREAS** on January 22, 2024, the Bankruptcy Court entered an *Order Dismissing*
24 *Bankruptcy Case and Retaining Jurisdiction to Determine Distribution of Assets Held by Chapter*
25 *7 Trustee* (the “Dismissal Order”). Pursuant to the Dismissal Order, the Bankruptcy Case was
26 formally dismissed for cause but the Bankruptcy Court retained jurisdiction to administer
27 administrative claims and distribution of the Estate Funds; and
28

WHEREAS the dismissal of the Bankruptcy Case and the resulting vacation of the related orders have resolved the dispute between the Trustee and Pisanelli Bice regarding turnover of the contested materials, such that this Appeal appearing before this Court is now moot and the Trustee and Pisanelli Bice have agreed to dismiss this Appeal, and to dismiss the related Adversary Proceeding pending in Bankruptcy Court.

STIPULATION

NOW, THEREFORE, in consideration of the following, it is hereby stipulated and agreed by and between PISANELLI BICE, PLLC as Appellant, and LENARD E. SCHWARTZER, TRUSTEE as Appellee, that this matter be DISMISSED WITH PREJUDICE, with each party to bear their own fees and costs.

Dated this 23rd day of May, 2024

Dated this 23rd day of May, 2024

/s/ James D. Greene

James D. Greene, Esq.

Michael V. Infuso, Esq.

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Counsel for Appellant Pisanelli Bice, PLLC

/s/ Jason A. Imes

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*Counsel for Appellee Lenard E. Schwartzer,
Chapter 7 Trustee*

ORDER

Based on the stipulation of counsel, and good cause appearing, this case is hereby DISMISSED WITH PREJUDICE; each party to bear their fees and costs. The Clerk of Court is directed to close this case.

IT IS SO ORDERED:


UNITED STATES DISTRICT JUDGE

DATED: May 24, 2024